

CHARTER  
OF THE  
**Town of Kitzmiller**

GARRETT COUNTY, MARYLAND

*The Charter of the Town of Kitzmiller was repealed  
and a new Charter was adopted by Resolution 2000-1  
Effective September 12, 2000*

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# **KITZMILLER**

## **CORPORATE CHARTER OF MAYOR AND COUNCIL OF TOWN OF KITZMILLER, MARYLAND**

### **ARTICLE I Corporate Name**

#### Section 101. Corporate Name.

This charter is the municipal corporation charter of the town of Kitzmiller, the corporate name of which is Mayor and Council of Kitzmiller, Maryland.

#### Section 102. Definitions.

The terms “town,” “city,” “municipality,” or “municipal corporations” in this charter shall be construed as synonymous.

### **ARTICLE II General Corporate Powers**

#### Section 201. General Powers.

The municipal corporation here established (or continued), under its corporate name, has all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual seccssion [succession], unless the charter and the corporate existence are legally abrogated.

### **ARTICLE III Corporate Limits**

#### Section 301. Description of Corporate Boundaries.

The corporate limits of the town of Kitzmiller are hereby declared to be as follows:

BEGINNING at a planted stone standing on the north bank of the north branch of the Potomac River, and running thence south 57 degrees west 1750 feet to a planted stone; thence south 57 degrees west 700 feet to a planted stone; thence south 27 degrees and thirty minutes west 1162 feet to the north bank of the said river, thence down and with the north bank of the said river, south 30 degrees east 455 feet; thence south 42 degrees and 30 minutes east 253 feet; thence south 62 degrees and 15 minutes east 103 feet; thence south 66 degrees and 15 minutes

east 103 feet; thence south 66 degrees and 30 minutes east 423 feet; thence south 85 degrees and 15 minutes east 353 feet to Third Avenue in said town of Kitzmiller; then south 86 degrees east 267 feet; thence north 84 degrees and 30 minutes east 377 feet to Second Avenue in said town of Kitzmiller; thence north 64 degrees and 30 minutes east 282 feet; thence north 47 degrees and 30 minutes east 710 feet; thence north 51 degrees and 30 minutes east 1271 feet; thence north 33 degrees and 30 minutes west 426 feet; thence north 34 degrees and 30 minutes west 1448 feet to the beginning.

Section 302. Public Filing of Corporate Boundaries.

A description of the corporate boundaries of the town at all times shall be on file with the town clerk or other comparable official and with the Clerk of the Circuit Court of Garrett County.

**ARTICLE IV**  
**The Council**

Section 401. Number of Council Members: Selection; Term.

All legislative powers of the town are vested in a council consisting of four council members who shall be elected as hereinafter provided and who shall hold office for a term of two years or until the succeeding council takes office. The regular term of council members shall expire on the fourth Monday following the election of their successors. Council members holding office at the time this charter becomes effective shall continue to hold office for the term for which they were elected and until the succeeding council takes office under the provisions of this charter.

Section 402. Qualifications of Council Members.

Council members shall have resided in the town for at least one year immediately preceding their election and shall be qualified voters of the town.

Section 403. Salary of Council Members.

Each council member shall receive an annual salary which shall be equal for all council members and shall be as specified from time to time by an ordinance passed by the council in the regular course of its business; provided, however, that the salary specified at the time any council takes office shall not be changed during the period for which that council was elected. The ordinance making any change increase or decrease, shall be finally ordained prior to the municipal election for the members of the next succeeding council and shall take effect only as to the members of the next succeeding council.



**Section 404. Meetings of Council.**

The newly elected council shall meet at 7:00 pm on the fourth Monday of the month following its election for the purpose of organization, after which the council shall meet regularly at 7:00 pm on the fourth Monday of each month. Special meetings shall be called by the clerk-treasurer upon the request of the mayor or a majority of the members of the council. All meetings of the council shall be open to the public, and rules of the council shall provide that residents of the town shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question.

**Section 405. Council to be Judge of Qualification of its Members.**

The council shall be the judge of the election and qualification of its members.

**Section 406. Vice Mayor of Council.**

The council shall elect a vice mayor of the council from among its members, who shall preside at council meetings in the absence of the mayor.

**Section 407. Quorum.**

A majority of the members of the council shall constitute a quorum for the transaction of business, but no ordinance shall be approved nor any other action taken without the favorable votes of a majority of the members present.

**Section 408. Rules and Order of Business; Journal.**

The council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The journal shall be open to public inspection.

**Section 409. Vacancies in Council.**

Vacancies in the council shall be filled as provided in Section 39 of this charter.

**Section 410. Passage of Ordinances; Publication; Effective Date.**

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the council held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by the affirmative votes of three members of the council. Every ordinance, unless it be passed as an emergency ordinance, shall become effective at the expiration of twenty calendar days following approval by the mayor or passage by the council over the mayor's veto. Each ordinance shall be

published at least twice in a newspaper or newspapers having general circulation in the municipality. An emergency ordinance shall become effective on the date specified in the ordinance, but no ordinance shall become effective until approved by the mayor or passed over the veto by the council.

#### Section 411. Veto.

All ordinances passed by the council shall be promptly delivered by the clerk–treasurer to the mayor for approval or disapproval. If the mayor approves any ordinance, the mayor shall sign it. If the mayor disapproves any ordinance, the mayor shall not sign it. The mayor shall return all ordinances to the clerk–treasurer within six days after delivery (excluding the first day, including the last day, and excluding any Sunday) with notice of approval or disapproval. Any ordinance approved by the mayor shall be law. Any ordinance disapproved by the mayor shall be returned with a message stating the reasons for disapproval. Any disapproved ordinance shall not become a law unless subsequently passed by a favorable vote of three of the whole council within thirty–five calendar days from the time of the return of the ordinance. If the mayor fails to return any ordinance within six days of its delivery, it shall be deemed to be approved by the mayor and shall become law in the same manner as an ordinance signed by the mayor.

#### Section 412. Referendum.

If, before the expiration of twenty calendar days following approval of any ordinances by the mayor or passage of any ordinance over the mayor’s veto, a petition is filed with the clerk–treasurer containing the signatures of not less than twenty per centum (20%) of the qualified voters of the town and requesting that the ordinance, or any part thereof, be submitted to a vote of the qualified voters of the town of their approval or disapproval, the council shall have the ordinance, or the part thereof requested for referendum, submitted to a vote of the qualified voters of the town at the next regular town election or, in the council’s discretion, at a special election occurring before the next regular election. No ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the qualified voters voting on the question. An emergency ordinance, or the part thereof requested for referendum, shall continue in effect for sixty days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has not been submitted to the qualified voters within sixty days following receipt of the petition, the operation of the ordinance, or the part thereof requested for referendum, shall be suspended until approved by a majority of the qualified voters voting on the question at any election. Any ordinance, or part thereof, disapproved by the voters, shall stand repealed. The provisions of this section shall not apply to any ordinance, or part thereof, passed under the authority of Section 62, levying property taxes for the payment of indebtedness, but the provisions of this section shall apply to any ordinance, or any part thereof, levying special assessment charges under the provisions of Sections 91 and 92. The provisions of the section shall be self–executing, but the council may adopt ordinances in furtherance of these provisions and not in conflict with them.

Section 413. File of Ordinances.

Ordinances shall be permanently filed by the clerk–treasurer and shall be kept available for public inspection.

**ARTICLE V**  
**The Mayor**

Section 501. Selection and Term.

The mayor shall be elected as hereinafter provided and shall hold office for a term of two years or until a successor is elected and qualified. The newly elected mayor shall take office on the fourth Monday following election. The mayor holding office at the time this charter becomes effective shall continue to hold office for the term for which the mayor was elected and until a successor takes office under the provisions of this charter.

Section 502. Qualifications.

The mayor must have resided in the town for at least one year immediately preceding election and must be a qualified voter of the town.

Section 503. Salary.

The mayor shall receive an annual salary as set from time to time by an ordinance passed by the council in the regular course of business. No change shall be made in the salary for any mayor during the term for which elected. The ordinance making any change in the salary paid to the mayor, either by way of increase or decrease, shall be finally ordained prior to the municipal election the next succeeding mayor.

Section 504. Powers and Duties.

(A) *Generally* – The mayor shall see that the ordinances of the town are faithfully executed and shall be the chief executive officer and the head of the administrative branch of the town government.

(B) *Appointments and removal of employees and heads of offices, departments and agencies* – The mayor, with the approval of the council, shall appoint the heads of all offices, departments, and agencies of the town government as established by this charter or by ordinance. All office, department, and agency heads shall serve at the pleasure of the mayor. All subordinate offices and employees of the offices, departments, and agencies of the town government shall be appointed and removed by the mayor, in accordance with rules and regulations in any merit system which may be adopted by the council.

(C) *Reports and recommendations to council* – The mayor each year shall report to the council the condition of municipal affairs and make such recommendations as are proper for the public good and the welfare of the town.

(D) *Veto* – The mayor shall have the power to veto ordinances passed by the council as provided in Section 411.

(E) *Supervision of financial administration of government* – The mayor shall have complete supervision over the financial administration of the town government. The mayor shall prepare or have prepared annually a budget and submit it to the council. The mayor shall supervise the administration of the budget as adopted by the council. The mayor shall supervise the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded.

(F) *Other powers and duties* – The mayor shall have such other powers and perform such other duties as may be prescribed by this charter or as may be required by the council, not inconsistent with this charter.

(G) The mayor shall vote where council is evenly divided in its voting.

## **ARTICLE VI**

### **General Powers**

#### Section 601. Powers of Council Enumerated.

(1) *General powers* – The council shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this charter as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of and visitors in the town.

(2) *Specific powers* – The council shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this State, for the specific purposes provided in the remaining subsection of this section.

(3) *Advertising* – To provide for advertising for the purpose of the town, for printing and publishing a statement as to the business of the town.

(4) *Aisles and door* – To regulate and prevent the obstruction of aisles in public halls, churches and places of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.

(5) *Amusements* – To provide in the interest of the public welfare for licensing, regulating or restraining theatrical or other public amusements.

(6) *Appropriations* – To appropriate municipal monies for any purpose within the powers of the council.

(7) *Auctioneers* – To regulate the sale of all kinds of property at auction within the town and license auctioneers.

(8) *Band* – To establish a municipal band, symphony orchestra or other musical organization and to regulate by ordinance the conduct and policies thereof.

(9) *Billboards* – To license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the city, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole or other place within the town.

(10) *Bridges* – To erect and maintain bridges.

(11) *Buildings* – To make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the town, and to grant building permits for them; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permit and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down.

(12) *Cemeteries* – To regulate or prohibit the interment of bodies within the municipality and to regulate cemeteries.

(13) *Codification of ordinances* – To provide for the codification of all ordinances.

(14) *Community services* – To provide, maintain and operate community and social services for the preservation and promotion of the health, recreation, welfare and enlightenment of the inhabitants of the town.

(15) *Cooperative activities* – To make agreements with other municipalities, counties, districts, bureaus, commissions and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

(16) *Curfew* – To prohibit the youth of the town from being in the streets, lanes, and alleys or public places at unreasonable hours of the night.

(17) *Dangerous improvements* – To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or

contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(18) *Departments* – To create, change and abolish offices, departments or agencies, other than the office, departments and agencies established by this charter; to assign additional functions or duties to offices, departments or agencies established by this charter, but not including the power to discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.

(19) *Dogs* – To regulate the keeping of dogs in the town and to provide, wherever the county does not license or tax dogs, for the licensing and taxing of them; to provide for the disposition of homeless dogs and of dogs on which no license fee or taxes are paid.

(20) *Elevators* – To require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(21) *Explosives and combustibles* – To regulate or prevent the storage of gunpowder, oil or any other explosive or combustible matter; to regulate or prevent the use of firearms, fireworks, bonfires, explosives or any other similar things which may endanger persons or property.

(22) *Filth* – To compel the occupant of any premises, building or outhouse situated in the town, if it has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owner or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against the property, making it collectible by taxes or against the occupant or occupants.

(23) *Finances* – To levy, assess and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have general management and control of the finances of the town.

(24) *Fire* – To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire-hazard regulations are met; to install and maintain fire plugs where and as necessary, and to regulate their use; and to take all other measures necessary to control and prevent fires in the town.

(25) *Food* – To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of, any food products.

(26) *Franchises* – To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, and any others which may be deemed advantageous and beneficial to the town,

subject to the limitations and provision [provisions] of Article 23 of the Annotated Code of Maryland. No franchise shall be granted for a longer period than fifty years.

(27) *Garbage* – To prevent the deposit of any unwholesome substance either on private or public property and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal.

(28) *Grants-in-aid* – To accept gifts and grants of Federal or of State funds from the Federal or State governments or any agency thereof, and to expend the funds for any lawful purpose, agreeably to the conditions under which the gifts or grants were made.

(29) *Hawkers* – To license, tax, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the town, and to revoke such licenses for any action or threat of action by such a licensee in the course of occupation which causes or threatens harm or injury to inhabitants of the town or to their welfare or happiness.

(30) *Health* – To protect and preserve the health of the town and its inhabitants; to appoint a public health officer, and to define and regulate the officer’s powers and duties; to prevent the introduction of contagious diseases into the town; to establish quarantine regulations, and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate and abate any buildings, structures or places which cause or may cause unsanitary conditions or conditions detrimental to health; but nothing herein shall be construed to affect in any manner any of the powers and duties of the state Board of Health, the county board of health, or any public general or local law relating to the subject of health.

(31) *House numbers* – To regulate the numbering of houses and lots and to compel owners to renumber them, or in default thereof to authorize and require the work to be done by the town at the owner’s expense, such expense to constitute a lien upon the property collectible as tax monies.

(32) *Jail* – To establish and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the town or to use the county jail for such purposes.

(33) *Licenses* – Subject to any restrictions imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise or services, to license and regulate any business, occupation, trade, calling or place of amusement or business; to establish and collect fees and charges for licenses and permits issued under the authority of this charter.

(34) *Liens* – To provide that any valid charges, taxes or assessments made against any real property within the town shall be liens upon the property, to be collected as municipal taxes are collected.

(35) *Lights* – To provide for the lighting of the town.

(36) *Livestock* – To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs or other animals; to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance in such cases provided.

(37) *Markets* – To obtain by lease or rent, own, construct, purchase, operate and maintain public markets within the town.

(38) *Minor privileges* – To regulate or prevent the use of public ways, sidewalks and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements, and display of goods, wares and merchandise.

(39) *Noise* – To regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles and horns.

(40) *Nuisances* – To prevent or abate by appropriate ordinance all nuisances in the town which are so defined at common law, by this charter, or by the laws of the State of Maryland, whether they be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the town of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort or health. In this connection the town may regulate, prohibit, control the location of, or require the removal from the town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, and renderies. This listing is by way of enumeration, not limitation.

(41) *Obstructions* – To remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the town.

(42) *Parking facilities* – To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate and maintain parking lots and other facilities for off-street parking.

(43) *Parking meters* – To install parking meters on the streets and public places of the town in such places as by ordinance they determine, and by ordinance to prescribe rates and provisions for the use thereof; but the installation of parking meters on any street or road maintained by the State Highway Administration must first be approved by the Administration.

(44) *Parks and recreation* – To establish and maintain public parks, gardens, playgrounds and other recreational facilities and programs to promote the health, welfare and enjoyment of the inhabitants of the town.

(45) *Police force* – To establish, operate and maintain a police force. All town police, within the municipality, shall have the powers and authority of constables in this State.



(46) *Police powers* – To prohibit, suppress, and punish within the town all vice, gambling and games of chance; prostitution and solicitation therefore and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity and drunkenness.

(47) *Property* – To acquire by conveyance, purchase or gift real or leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the town and its inhabitants; and to convey any real or leasehold property when no longer needed for the public use, after having given at least twenty days' public notice of the proposed conveyance; to control, protect, and maintain public buildings, grounds and property of the town.

(48) *Quarantine* – To establish quarantine regulations in the interest of the public health.

(49) *Regulations* – To adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking and other similar regulations not in conflict with the laws of the State of Maryland or with this charter.

(50) *Sidewalks* – To regulate the use of the sidewalks and all structures in, under or above them; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions; to prescribe hours for cleaning sidewalks.

(51) *Sweepings* – To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids or other unwholesome materials into any public way or on any public or private property in the town.

(52) *Taxicabs* – To license, tax and regulate public hacks, taxicab drivers, dray operators, drivers, porters and express operators, and all other persons pursuing like occupations.

(53) *Vehicles* – To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(54) *Voting machines* – To purchase, lease, borrow, install, and maintain voting machines for use in town elections.

(55) *Zoning* – To exercise the powers as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland, subject to the limitations and provisions of said article.

(56) *Saving clause* – The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned.

Section 602. Exercise of Powers.

For the purpose of carrying out the powers granted in this charter, the council may pass all necessary ordinances. All the powers of the town shall be exercised in the manner prescribed

by this charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Section 603. Enforcement of Ordinances.

The Mayor and Town Council may provide that violations of any Town Ordinance shall be a “municipal infraction” as defined by Article 23A, Section 3 of the Annotated Code of Maryland unless the violation is declared to be a felony or misdemeanor by State Law. All “municipal infractions” shall be considered civil offenses and shall be handled in accordance with the procedure set forth in Article 23A, Section 3 of the Annotated Code of Maryland or any amendments thereto. The Mayor and Council shall from time to time by resolution establish the level of fines to be imposed for all such “municipal infractions”. Nothing contained in this section shall prohibit or prevent the town from seeking other legal remedies such as injunctions, criminal prosecution, or damages in a civil action pursuant to Section 3 of Article 23A or Section 7.01 of Article 66B Annotated Code of Maryland as amended. (Res. No. 2005-01, 11-15-05.)

## **ARTICLE VII Elections**

Section 701. Qualification of Voters.

Every person who (1) is a citizen of the United States, (2) is at least eighteen years of age, (3) has resided in the State of Maryland for at least one year next preceding any town election, (4) has resided within the corporate limits of the town for thirty days next preceding any town election, and (5) is registered in accordance with the provisions of this charter, is a qualified voter of the town. Every qualified voter of the town is entitled to vote at all town elections.

Section 702. Board of Supervisors of Elections.

There shall be a board of supervisors of elections, consisting of three members who shall be appointed by the mayor with approval of the council on or before the fourth Monday in February in the year in which they are appointed and run for four years. Members of the board of supervisors of elections shall be qualified voters of the town and shall not hold or be candidate for any elective office during their term of office. The board shall appoint one of its members as chair. Vacancies on the board shall be filled by the mayor with the approval of the council for the remainder of the unexpired term. The compensation of the members of the board shall be determined by the council.

Section 703. Same — Removal of Members.

Any member of the board of supervisors of elections may be removed for good cause by the council, if in the judgement of the council the member is not properly performing or will not properly perform the duties of the position. Before removal, the member of the board of supervisors of elections to be removed shall be given a written copy of the charges and shall

have a public hearing on them before the council if so requested within ten days after receiving the written copy of the charges.

Section 704. Same — Duties.

The board of supervisors of elections shall be in charge of the registration of voters, nominations and all town elections.

Section 705. Notice of Registration Days and Elections.

The board of supervisors of elections shall give at least two weeks' notice of every registration day and every election by an advertisement published in at least one newspaper of general circulation in the town and by posting a notice thereof in some public place or places in the town.

Section 706. Registration.

(A) Registration by the Garrett County Board of Elections shall be deemed registration for the town, provided that the person so registered meets the voter qualifications enumerated in this charter. The Town of Kitzmiller Board of Supervisors of Elections shall accept the list of registered voters provided by the Garrett County Board of Elections as a valid registration list for the town.

(B) The town may maintain a separate registration list and register voters for town elections during regular business hours at the town offices.

Section 707. Appeal from Action of Board of Supervisors of Elections.

If any person is aggrieved by the action of the board of supervisors of elections in refusing to register or in striking off the name of any person, or by any other action that person may appeal to the council. Any decision or action of the council upon such appeals may be appealed to the circuit court for the county within the time allowed for such appeals.

Section 708. Filing Certificate of Nomination.

Persons may be nominated for elective office in the town by filing a certificate of nomination at the town office, with the Town Clerk, on or before the second Tuesday after the first Monday in March next preceding the town election. Nominees shall agree in writing to the nomination prior to the filing of a certificate. No person shall file for nomination to more than one elective town public office or hold more than one elective town public office at any one time.

Section 709. Primary Election; Municipal Meeting or Convention.

(A) *Time of holding; conduct of primary election* – A primary election or municipal meeting or convention shall be held in the town on the fourth Monday in March in every

even-numbered year, in order to select candidates for the general election on the second Tuesday in April. The primary election shall be conducted generally as specified in this subtitle for the conduct of special and general elections. Candidates' names shall appear in alphabetical order for the office sought, on the ballots or voting machine labels, with no party designation of any kind. If not more than four persons have filed as candidates for the office of council member, or if not more than two persons have filed for the office of mayor, no primary election shall be held as to that office or those offices. In such instances those nominated for mayor or the nominees for council member shall be considered as nominees and their names shall be placed on the ballots or voting machines at the general election on the second Tuesday in April. Of the candidates participating in the primary election the two persons receiving the highest number of votes cast for the office of mayor and the six candidates receiving the highest number of votes cast for the office of councilman shall be named and considered as nominees at the general municipal election following.

(B) *Town meeting or convention* – Candidates for the general election may be chosen at a town meeting or convention, at the time specified herein. Such meeting or convention for the selection of candidates shall be conducted generally according to accepted parliamentary procedure. In other respects, nominations at town meetings or conventions wherever applicable, shall be conducted as specified herein for primary elections.

#### Section 710. Election of Mayor and Council Members.

(A) On the second Tuesday in April 2002, the qualified voters of the town shall elect one person as mayor and two persons as council members who shall serve terms of three years. On the second Tuesday in April 2004, the qualified voters of the town shall elect two council members who shall serve two-year terms. Thereafter, the qualified voters of the town shall elect mayor and council members as provided in this charter.

(B) On the second Tuesday in April in every odd-numbered year, the qualified voters of the town shall elect one person as mayor and two persons as council members; in every even-numbered year, the qualified voters shall elect two persons as council members. Council so elected shall serve for two years. Mayor elected shall serve for two years.

#### Section 711. Conduct of Elections Generally.

It is the duty of the board of supervisors of elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this charter, arranged in alphabetical order by office with no party designation of any kind. The board of supervisors of election shall keep the polls open from 10:00 am to 8:00 pm on election days or for longer hours if the council requires it.

#### Section 712. Special Elections.

All special town elections shall be conducted by the board of supervisors of elections in the same manner and with the same personnel, as far as practicable, as regular town elections.

Section 713. Vote Count.

Within forty–eight hours after the closing of the polls, the board of supervisors of elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the clerk–treasurer of the town, who shall record the results in the minutes of the council. The candidate for mayor with the highest number of votes in the general election shall be declared elected as mayor. The two candidates for council member with the highest number of votes in the general election shall be declared elected as council members.

Section 714. Preservation of Ballots.

All ballots used in any town shall be preserved for at least six months from the date of the election.

Section 715. Vacancies.

In case of a vacancy on the council for any reason, the council shall elect some qualified person to fill the vacancy for the unexpired term. In case of a vacancy in the office of mayor for any reason, the council shall elect some qualified person to fill the vacancy for the remainder of the unexpired term. Any vacancies on the council or in the office of mayor shall be filled by the favorable votes of a majority of the remaining members of the council. The results of any such vote shall be recorded in the minutes of the council.

Section 716. Regulation and Control by Council.

The council has the power to provide by ordinance in every respect not covered by the provisions of this charter for the conduct of registration, nomination and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

Section 717. Penalties.

Any person who (1) fails to perform any required duty under the provisions of this subheading or any ordinances passed thereunder, (2) in any manner willfully or corruptly violates any of the provisions of this subheading or any ordinances passed thereunder or (3) willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or town election, is guilty of a misdemeanor. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment.

## ARTICLE VIII Finance

### Section 801. Clerk–Treasurer.

There shall be a clerk–treasurer appointed by the mayor with the approval of the council. The clerk–treasurer shall serve at the pleasure of the mayor. The clerk–treasurer’s compensation shall be determined by the council. The clerk–treasurer shall be the chief financial officer of the town. The financial powers of the town, except as otherwise provided by this charter, shall be exercised by the clerk–treasurer under the direct supervision of the mayor.

### Section 802. Powers and Duties.

Under the supervision of the mayor, the clerk–treasurer shall have authority and shall be required to:

- (1) Prepare at the request of the mayor an annual budget to be submitted by the mayor to the council.
- (2) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded.
- (3) Maintain a general accounting system for the town in such form as the council may require, not contrary to State Law.
- (4) Submit at the end of each fiscal year, and at such other times as the council may require, a complete financial report to the council through the mayor.
- (5) Ascertain that all taxable property within the town is assessed for taxation.
- (6) Collect all taxes, special assessments, license fees, liens, and all other revenues (including utility revenues) of the town, and all other revenues for whose collection by town is responsible, and receive any funds receivable by the town.
- (7) Have custody of all public monies belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.
- (8) Do such other things in relation to the fiscal or financial affairs of the town as the mayor or the council may require or as may be required elsewhere in this charter.

### Section 803. Same — Bond.

The clerk–treasurer shall provide a bond with such corporate surety and in such amount as the council by ordinance may require.

**Section 804. Fiscal Year.**

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July in any year and shall end of the last day of June in the following year. The fiscal year constitutes the tax year, the budget year and the accounting year.

**Section 805. Budget.**

The mayor, on such date as the council by ordinance determines, but at least thirty-two days before the beginning of any fiscal year, shall submit a budget to the council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues [that] shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the clerk-treasurer, open to public inspection by anyone during normal business hours.

**Section 806. Adoption.**

Before adopting the budget the council shall hold a public hearing thereon after two weeks notice thereof in some newspaper or newspapers having general circulation within the municipality. The council may insert new items or may increase or decrease the items of the budget. If the council increases the total anticipated revenues in any amount at least equal to the total proposed expenditures it shall also increase the total anticipated revenues in an amount at least equal to the total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of at least a majority of the total elected membership of the council is necessary for adoption.

**Section 807. Appropriations.**

No public money may be expended without having been appropriated by the council. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

**Section 808. Transfer of Funds.**

Any transfer of funds between major appropriations for different purposes by the mayor must be approved by the council before becoming effective.

**Section 809. Over-Expenditures Forbidden.**

No officer or employee during any budget year may expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this charter. Any contract, verbal or written, made in violation of this charter is null and void. Nothing in this section contained, however, prevents the making of contracts or the spending of money for capital improvements to

be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which the contract is made, when the contract is permitted by law.

Section 810. Appropriations Lapse after One Year.

All appropriations lapse at the end of the budget year to the extent that they are not expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

Section 811. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the clerk–treasurer and shall be countersigned by the mayor.

Section 812. Taxable Property.

All real property and all tangible personal property within the corporate limits of the town, or personal property which may have a situs there by reason of the residence of the owner therein, is subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any act of the General Assembly.

Section 813. Budget Authorizes Levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax constitutes a determination of the amount of the tax levy in the corresponding tax year.

Section 814. Notice of Tax Levy.

Immediately after the levy is made by the council in each year, the clerk–treasurer shall give notice of the making of the levy by posting a notice thereof in some public place or places in the town. The clerk–treasurer shall make out and mail or deliver in person to each taxpayer or the taxpayer’s agent at the taxpayer’s last known address a bill or account of the taxes due. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve the taxpayer of the responsibility to pay on the dates established by this charter all taxes levied on the taxpayer’s property.

Section 815. When Taxes are Overdue.

(A) *Real property taxes — Semiannual.* The taxes provided for in section 53 of this charter shall be due and payable on the first day of July and the first day of January in the year



for which they are levied and shall be overdue and in arrears at the rate prescribed by state law. The second semiannual payment will reflect a service charge, which the law allows the town to impose, for administering the semiannual payment plan. The service charge is designed to cover any interest lost by the town as well as administrative costs. The service charge percentage shall be adopted by the town as part of adoption of the property tax rate.

(B) *Personal property taxes.* The personal property taxes provided for in Section 53 of this charter shall be due and payable thirty (30) days after the date they are billed. All taxes not paid within ninety (90) days of the date they are billed shall be overdue and in arrears. They shall bear interest while in arrears at the rate prescribed by state law until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in section 57.

#### Section 816. Sale of Tax-Delinquent Property.

A list of all property on which the town taxes have not been paid and which are in arrears as provided by section 56 of this charter shall be turned over by the clerk-treasurer to the official of the county responsible for the sale of tax-delinquent property as provided in State law. All property listed thereon, if necessary, shall be sold for taxes by this county official, in the manner prescribed by law.

#### Section 817. Fees.

All fees received by an officer or employee of the town government in any official capacity shall belong to the town government and be accounted for to the town.

#### Section 818. Audit.

The financial books and accounts of the town shall be audited annually as required by section 40 of Article 19 of the Annotated Code of Maryland (1957 Edition, as amended).

#### Section 819. Tax Anticipation Borrowing.

During the first six months of any fiscal year, the town may borrow in anticipation of the collection of the property tax levied for that fiscal year, and may issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid no later than six months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or other evidence of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which the notes or other evidences of indebtedness are issued. All tax anticipation notes or other evidences of indebtedness shall be authorized by ordinance before being issued. The council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes.

Section 820. Payment of Indebtedness.

The power and obligation of the town to pay any and all bonds, notes or other evidences of indebtedness issued by it under the authority of this charter shall be unlimited and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the town is hereby pledged for the payment of the principal of and the interest on all bonds, notes or other evidences of indebtedness issued under the authority of this charter, whether or not such pledge be stated in the bonds, notes or other evidences of indebtedness, or in the ordinance authorizing their issuance.

Section 821. Previous Issues.

All bonds, notes or other evidences of indebtedness validly issued by the town previous to the effective date of this charter and all ordinances passed concerning them are hereby declared to be valid, legal and binding and of full force and effect as of herein fully set forth.

Section 822. Purchasing and Contracts.

All purchases for the town government shall be made by the clerk–treasurer, with the approval of the mayor. The council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all town purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements or contractual service involving more than five thousand dollars (\$5,000.00) shall be made on written contract. The clerk–treasurer shall advertise for sealed bids, in such manner as may be prescribed by ordinance, for all such written contracts. The written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion and responsibility of bidder being considered. All such written contracts shall be approved by the council before becoming effective. The clerk–treasurer may reject all bids and readvertise. The town at any time in its discretion may employ its own forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All written contracts may be protected by such bonds, penalties and conditions as the town may require.

## **ARTICLE IX**

### **Personnel**

Section 901. Clerk to Council.

The clerk–treasurer shall serve as clerk to the council, and shall attend every meeting of the council and keep a full and accurate account of the proceedings of the council. The clerk–treasurer shall keep such other records and perform such other duties as may be required by this charter or the council.

Section 902. Town Attorney.

The mayor with approval of the council may appoint a town attorney. The town attorney shall be a member of the bar of the Maryland Court of Appeals. The town attorney is the legal advisor of the town and shall perform such duties in this connection as may be required by the council or the mayor, with compensation to be determined by the council. The town has the power to employ such legal consultants as it deems necessary from time to time.

Section 903. Merit System Authorized.

The town may provide by ordinance for appointments and promotions in the administrative service on the basis of merit and fitness. To carry out this purpose the council may adopt such rules and regulations governing the operation of a merit system as it deems desirable or necessary. Among other things these rules and regulations may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeal by employees included within the classified service from dismissal or other disciplinary action, and vacation and sick leave regulations.

Section 904. Unclassified and Classified Service.

(A) *Civil service divided into unclassified and classified service* – The civil service of the town shall be divided into the unclassified and classified service.

(B) *Unclassified service* – The unclassified service shall comprise the following office and positions, which shall not be included within the merit system:

(1) The mayor, the council members and persons appointed to fill vacancies in these positions.

(2) The clerk–treasurer and the town attorney.

(3) The heads of all offices, departments and agencies and members of town boards and commissions.

(4) Part–time, temporary and unpaid offices and positions.

(C) *Classified service* – The classified services shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the Classified service shall be subject to any merit system rules and regulations which may be adopted.

Section 905. Prohibitions and Penalties.

(A) *Prohibitions* – If a merit system is adopted, no person in the classified service of the town or seeking admissions thereto shall be appointed, promoted, demoted, removed or in any way favored or discriminated against because of political or religious opinions or affiliations

or any other factors not related to ability to perform the work; no person shall willfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions of this charter or of the rules and regulations made thereunder; no officer or employee in the classified service of the town shall continue in such position after becoming a candidate for nomination or election to any public office; no person seeking appointment to or promotion in the classified service of the town shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with appointment, proposed appointment, promotion, or proposed promotion; no person shall orally, by letter of [or] otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the town; no person holding a position in the classified service of the town shall make any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign, of any political party or candidate for public office, further than in the exercise of the right as a citizen to express an opinion and to cast a vote.

(B) *Penalties* – Any person who, alone or with others, willfully or corruptly violates any of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment for a term not exceeding thirty days, or by both such fine and imprisonment. Any person who is convicted under this section for a period of five years is ineligible for appointment to or employment in a position in the town service, and, if an officer or employee of the town, shall immediately forfeit the office or position held.

#### Section 906. Retirement System.

The town may do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the town.

#### Section 907. Employee Benefit Programs.

The town by ordinance may provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees, and may expend public monies of the town for such programs.

## **ARTICLE X**

### **Public Ways and Sidewalks**

#### Section 1001. Definition of Public Ways.

The term “public ways” as used in this charter includes all streets, avenues, roads, highways, public thoroughfares, lanes and alleys.

Section 1002. Control of Public Ways.

The town has control of all public ways in the town except those that are under the jurisdiction of the State Highway Administration. Subject to the laws of the State of Maryland and this charter, the town may do whatever it deems necessary to establish, operate and maintain in good condition the public ways of the town.

Section 1003. Powers of Town as to Public Ways.

- (1) Establish, regulate and change from time to time the grade lines, width and construction materials of any town public way, or part thereof, bridges, curbs and gutters.
- (2) Grade, lay out, construct, open, extend and make new town public ways.
- (3) Grade, straighten, widen, alter, improve or close up any existing town public way or part thereof.
- (4) Pave, surface, repave or resurface any town public way or part thereof.
- (5) Install, construct, reconstruct, repair and maintain curbs and/or gutters along any town public way or part thereof.
- (6) Construct, reconstruct, maintain and repair bridges.
- (7) Name town public ways.
- (8) Have surveys, plans, specifications and estimates made for any of the above activities or projects or parts thereof.

Section 1004. Powers of Town as to Sidewalks.

The town may:

- (1) Establish, regulate and change from time to time the grade lines, width and construction materials of any sidewalk or part thereof on town property along any public way or part thereof.
- (2) Grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter sidewalks on town property along any public way or part thereof.
- (3) Require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow and other obstruction.
- (4) Require and order the owner of any property abutting on any public way in the town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the

order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectable in the same manner as town taxes or by suit at law.

## **ARTICLE XI Waters and Sewers**

### Section 1101. Powers of Town.

The town may:

- (1) Construct, operate and maintain a water system and water plant.
- (2) Construct, operate and maintain a sanitary sewerage system and a sewage treatment plant.
- (3) Construct, operate and maintain a storm water drainage system and storm water sewers.
- (4) Construct, maintain, reconstruct, enlarge, alter, repair, improve or dispose of all parts, installations, and structures of the above plants and systems.
- (5) Have surveys, plans, specifications and estimates made for any of the above plants and systems or part thereof or the extension thereof.
- (6) Do all things it deems necessary for the efficient operation and maintenance of the above plants and systems.
- (7) Contract with others to do any of the above.

### Section 1102. Placing Structures in Public Ways.

Any public service corporation, company or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe or other structure in the public ways of the town, shall submit plans to the town and obtain written approval upon such conditions and subject to such limitations as may be imposed by the town. Any public service corporation, company or individual violating the provisions of this section is guilty of a misdemeanor. If any unauthorized main, conduit, pipe or other structure interferes with the operation of water, sewerage or storm water systems, the town may order it removed.

### Section 1103. Obstructions.

All individuals, firms or corporations having mains, pipes, conduits, or other structures in, on, or over any public way in the town or in the county which impeded the establishment, construction or operation of any town sewer or water main, upon reasonable notice, shall remove the obstructions at their own expense to the satisfaction of the town. If necessary to carry out the

provisions of this section, the town may use its condemnation powers provided in section 92. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

Section 1104. Entering on County Public Ways.

The town may enter upon or do construction in, on or over any county public way for the purpose of installing or replacing any equipment or doing any other things necessary to establish, operate and maintain the water system, water plant, sanitary sewerage system, sewage treatment plant or storm water sewers provided for in this charter. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before.

Section 1105. Connections.

The town shall provide a connection with water and sanitary sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid. When any water main or sanitary sewer is declared ready for operation by the town, all abutting property owners after reasonable notice shall connect all fixtures with the water or sewer main. The town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sinkdrains, and privies be abandoned, filled, removed or left in such a way as to not injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. Any violation of any ordinance passed under the provisions of this section may be made a misdemeanor.

Section 1106. Same — Charge.

The town may make a charge, the amount to be determined by the council, for each connection made to the town's water or sewer mains. This charge shall be uniform throughout the town, but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made.

Section 1107. Changes in Plumbing, etc. to Prevent Waste or Improper Use.

In order to prevent any leakage or waste of water or other improper use of the town's water system or sewage disposal system, the town may require such changes in plumbing, fixtures or connection as it deems necessary to prevent such waste or improper use.

Section 1108. Private Systems.

The town by ordinance may provide that no water supply, sewerage or storm water drainage system, and no water mains, sewers, drains or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not

and will not be likely to affect adversely the public comfort and health and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the town. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

Section 1109. Extensions Beyond Boundaries.

The town may extend its water or sewerage systems beyond the town limits.

Section 1110. Right of Entry.

Any employee or agent of the town, while in the necessary pursuit of official duties with regard to the water or sewage disposal systems operated by the town, has a right of entry, for access to water or sewer installations, at all reasonable hours, and after reasonable advance notice to the owner, tenant or person in possession, upon any premises and into any building in the town or in the county served by the town's water or sewage disposal system. Any restraint or hindrance offered to the entry by any owner, tenant or person in possession, or the agent of any of them, by ordinance, may be made a misdemeanor.

Section 1111. Pollution of Water Supply.

No person shall do anything which will discolor, pollute or tend to pollute any water used or to be used in the town water supply system. Any violation of the provision of his [this] section is a misdemeanor.

Section 1112. Contracts for Service.

The town, if it deems necessary, may contract with any party or parties, inside or outside the town, to obtain water or to provide for the removal of sewage.

Section 1113. Charges.

The town may charge and collect such service rates, water rents, ready-to-serve charges or other charges as it deems necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the clerk-treasurer, and if bills are unpaid within thirty days, the service may be discontinued. All charges shall be a lien on the property, collectible in the same manner as town taxes or by suit at law.

Section 1114. Exception.

The provisions of this subheading shall not extend to any town located in a sanitary district or special tax area or district authorized to discharge the powers provided in this subheading, as to the particular powers included in the authorization.

Section 1115. Power of Town to Levy Special Assessments.



The town may levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon the property by the installation or construction of water mains, sanitary sewer mains, storm water sewers, curbs and gutters and by the construction and paving of public ways and sidewalks or parts thereof, and it may provide for the payment of all or any part of the above project to be paid in whole or in part by special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge of the services of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the project.

Section 1116. Procedure.

(A) *Provided* – The procedure for special assessments, wherever authorized in this charter, is as provided in this section.

(B) *Assessment of cost* – The cost of the project being charged for shall be assessed according to the front rule of apportionment or some other equitable basis determined by the council.

(C) *Amount* – The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which causes the total amount of special assessments levied by the town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

(D) *Uniformity of rates* – When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

(E) *Levy of charges; public hearing; notice* – All special assessment charges shall be levied by the council by ordinance. Before levying any special assessment charges, the council shall hold a public hearing. The clerk-treasurer shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, and estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner or [of] record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The clerk-treasurer shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the clerk-treasurer shall have completed publication and service of notice as provided

in this section. Following the hearing the council, in its discretion, may vote to proceed with the project and may levy the special assessment.

(F) *Right to appeal* – Any interested person feeling aggrieved by the levying of any special assessment under the provision of this section shall have the right to appeal to the circuit court for the county within ten days after the levying of any assessment by the council.

(G) *Payments; interest* – Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten years, and in such manner as the council may determine. The council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the council.

(H) *When due; lien on property; collection* – All special assessment installments are overdue six months after the date on which they became due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law.

(I) *Clerk-treasurer* – All special assessments shall be billed and collected by the clerk-treasurer.

## **ARTICLE XII**

### **Town Property**

#### Section 1201. Acquisition, Possession and Disposal.

The town may acquire real, personal or mixed property within the corporate limits of the town for any public purpose by purchase, gift, bequest, devise, lease, condemnation or otherwise and may sell, lease or otherwise dispose of any property belonging to the town. All municipal property, funds and franchises of every kind belonging to or in the possession of the town (by whatever prior name known) at the time this charter becomes effective are vested in the town, subject to the terms and conditions thereof.

#### Section 1202. Condemnation.

The town may condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within the corporate limits of the town, for any public purpose. Any activity, project or improvement authorized by the provisions of this charter or any other State law applicable to the town is a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in Title 12 of the Real Property Article of the Code.

#### Section 1203. Town Buildings.

The town may acquire, obtain by lease or rent, purchase, construct, operate and maintain all buildings and structures it deems necessary for the operation of the town government.

Section 1204. Protection of Town Property.

The town may do whatever may be necessary to protect town property and to keep all town property in good condition.

Section 1205. Oath of Office.

(A) *Oath required* – Before entering upon the duties of their offices, the mayor, the council member, the clerk–treasurer, the members of the board of supervisors of elections and all other persons elected or appointed to any office of profit or trust in the town government shall take and subscribe to the following oath or affirmation: “I, \_\_\_\_\_, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgement, diligently and faithfully, without partiality and prejudice, execute the office of \_\_\_\_\_, according to the Constitution and laws of this State.”

(B) *Before whom taken and subscribed* – The mayor shall take and subscribe to this oath or affirmation before the Clerk of the Circuit Court for Garrett County or before one of the sworn deputies of the clerk. All other persons taking and subscribing to the oath shall do so before the mayor.

Section 1206. Official Bonds.

The clerk–treasurer and such other officers or employees of the town as the council or this charter may require, shall give bond in such amount and with such surety as may be required by the council. The premiums on such bonds shall be paid by the town.

Section 1207. Prior Rights and Obligations.

All right, title and interest held by the town or any other person or corporation at the time this charter is adopted, in and to any lien acquired under any prior charter of the town, are hereby preserved for the holder in all respects as if this charter had not been adopted, together with all rights and remedies in relation thereto. This charter shall not discharge, impart or release any contract, obligation, duty, liability or penalty whatever existing at the time this charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for cause of action now existing or offenses already committed against any law or ordinance repealed by this charter, shall be instituted[,] proceeded with, and prosecuted to final determination and judgement as if this charter had not become effective.

Section 1208. Misdemeanors.

Every act or omission which, by ordinance, is made a misdemeanor under the authority of this charter, unless otherwise provided, shall be punishable upon conviction by the District Court sitting in the county within which the offense is committed by a fine not exceeding five hundred

dollars (\$500.00) or imprisonment for six months in the county jail or both, at the discretion of the court. Where the act or omission is of a continuing nature and is persisted in, a conviction for one offense is not a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

Section 1209. Effect of Charter on Existing Ordinances.

(A) *Ordinances, etc., not in conflict with charter remains [remain] in effect* – All ordinances, resolutions, rules and regulations in effect in the town at the time this charter becomes effective which are not in conflict with the provisions of this charter shall remain in effect until changed or repealed according to the provisions of this charter.

(B) *Ordinances, etc., in conflict with charter repealed* – All ordinances, resolutions, rules and regulations in effect in the town at the time this charter becomes effective which are in conflict with the provisions of this charter are repealed to the extent of such conflict.

Section 1210. Separability.

If any section or part of section of this charter is held invalid by a court of competent jurisdiction, this holding shall not affect the remainder of this charter or the context in which such section or part of section so held invalid appears, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.